



INDIANA'S NEW SMOKING LAW

FREQUENTLY ASKED QUESTIONS – FOR FRATERNAL CLUBS

1. How is a private club defined in Indiana Code?

As defined by [I.C. 7.1-3-20-1](#), a club must meet the following requirements to gain the appropriate club permit:

- (a) It shall have been organized in good faith under authority of law;
- (b) It shall have been in active, continuous existence for at least three (3) years prior to the date the application for the permit is filed;
- (c) It shall have maintained, in good faith, a membership roll for the three (3) year period;
- (d) It shall have a paid-up membership of more than fifty (50) members at the time the application is filed;
- (e) It shall be the owner, lessee, or occupant of an establishment operated solely for objects of a national, social, patriotic, political, or athletic nature, or the like;
- (f) It shall not be operated for pecuniary gain;
- (g) The property and the advantages of the organization shall belong to its members; and
- (h) It shall maintain an establishment provided with special space and accommodations where, in consideration of payment, food, with or without lodging, is habitually served.

2. How is a fraternal club defined in Indiana Code?

As defined by [I.C. 7.1-3-20-7](#), a fraternal club means an association or corporation, the membership of which is comprised of or forms:

- (1) a lodge or local chapter or corresponding unit of a fraternal order or of another association of a like nature; or
 - (2) a body whose membership is comprised of persons who have served in the armed forces of the United States; and which has been in continual existence on a national scale for more than five (5) years prior to the date the application is filed.
- (b) Fraternal clubs and labor organizations need not meet the requirements of section 1 of this chapter, but are considered clubs for all other purposes of this title.

3. Is it true that smoking is allowed in private or fraternal clubs?

Yes, if the private and fraternal club meets all of the requirements as described in [HEA 1149](#) (I.C. 7.1-5-12).

4. Does the private or fraternal club have to be exempt from federal income taxation to also be exempt from Indiana's smoking law?

Yes. The club has to be exempt from federal income taxation under 26 U.S.C 501 (c) in order to be exempt from Indiana's smoking law, as well as meet other requirements in [HEA 1149](#) (I.C. 7.1-5-12).

5. Does the private or fraternal club have to provide a smoking room?

Yes. The club must provide a separate, enclosed, designated smoking room or area that is ventilated to prevent the migration of smoke to nonsmoking areas on the premises. Smoking is only allowed in the designated area or room. Additionally, someone less than 18 years of age cannot be allowed to enter the designated area or room.

6. Does the membership of the private or fraternal club have to vote to allow smoking?

Yes. Members must have voted, within the two previous years, to allow smoking on the premises. The initial vote must occur on or before June 30, 2012.

7. What other requirements do private or fraternal clubs have to meet to allow smoking?

In addition to the requirements noted above, the club can only provide alcoholic beverages to its bona fide members and their guests.

8. We have an annual bingo license, with which we conduct three bingo nights each week. We are a 501(c) non-profit, but we are *not* a fraternal club with an alcoholic beverage permit. Does the new smoking law exempt us?

No. Smoking is not permitted at locations with an annual bingo license, except at exempt fraternal clubs meeting all of the requirements of I.C. 7.1-5-12-5.

9. The smoking-ban law requires businesses that are exempt from the ban to provide the Alcohol & Tobacco Commission with a statement verifying their exemption. How do we file this statement with the ATC?

Fraternal clubs and other organizations that meet all of the requirements for an exemption from the state smoking ban may file the Exemption Form found on the ATC's website, www.in.gov/atc. The form will be available before July 1, 2012, when the law takes effect.

10. May the "separate, enclosed, designated smoking room or area" be our bingo hall?

Yes. But, the bingo hall must meet all other requirements found in I.C. 7.1-5-12. Additionally, only one room may be the designated smoking room. For example, if the barroom is the designated smoking room, the bingo hall may not be. Conversely, if the bingo hall is the designated smoking room, the barroom may not be.